

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4504 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

DIPAK MANGA MARU

Versus

STATE OF GUJARAT

Appearance:

THROUGH JAIL .

MR. HL JANI, AGP,for the Respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 20/07/98

ORAL JUDGEMENT

In this writ petition the detenu Dipak Manga Maru who is detained pursuant to the order of detention dated 8-1-98 passed by the Commissioner of Police, Surat under section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985 (hereinafter referred to as "the Act") has challenged the same through jail.

In the grounds of detention supplied to the

detenu, the detaining authority has relied upon nine criminal cases filed against the detenu out of which seven are for offences under sections 329 and 114 sections while two are for offences under sections 323 and 324 of the Indian Penal Code and section 135 of the Bombay Police Act. Over and above these pending cases, the detaining authority has also relied upon certain unregistered cases alleged to have taken place on 12-7-97 and 14-9-97 and the incident took place three days prior to the incident of 14-9-97 wherein the petitioner was alleged to have been involved in beating the witnesses on the public road when he refused to pay price of the articles purchased by him and in another incident the petitioner demanded Rs.500 from the witness and when he refused to part with the money, he was beaten by the petitioner on public road and on the last occasion when the petitioner demanded lift on the vehicle of the concerned witness and when the witness refused to oblige, the witness was beaten by the petitioner and his associates. On all the said occasions, the petitioner and his associates rushed towards the crowd collected as a result when the people started running helter-skelter to save their lives, the traffic on the road was disturbed and an atmosphere of terror and fear was created.

On the basis of the aforesaid material, the detaining authority recorded a finding that the petitioner is a dangerous person within the meaning of Section 2(c) of the PASA Act and with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, passed the impugned order of detention against the petitioner, which has been challenged by the petitioner by way of this petition.

This petition is required to be allowed on the ground that assuming for the sake of arguments that the allegations made against the petitioner are true, the same at best can be treated as breaches of law and order and not public order. I have gone through the statements of the witnesses which are stereo-type. Reading the same, it clearly establishes without any manner of doubt that the statements are quite general and vague in nature and the alleged incidents are against individuals and the general public is not concerned at all and, therefore, it cannot be contended that the petitioner is involved in committing breaches of public order. Even if the allegations made are believed to be true, the same at best can be termed as breach of law and order and in no

circumstances the same can be termed as breach of public order. Consequently, therefore, the satisfaction arrived at by the detaining authority that the petitioner is a dangerous person is also visited . The order of detention is therefore liable to be quashed and set aside.

In the result, this petition is allowed. The order of detention dated 8-1-98 is quashed and set aside. The detenu Dipak Manga Maru is ordered to be released forthwith if not required in connection with any other offence. Rule is made absolute accordingly with no order as to costs.

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